

Exhibit A

From: Amanda <amanda@mgtattorneys.com>
Sent: Monday, March 5, 2018 4:36 PM
To: Richard North; Maria Turner; Matthew Lerner
Subject: Pospisil v. C.R. Bard, Inc., Short Form Complaint and Request to Waive Service
Attachments: 1_PospisilSFC_3.5.2018.pdf; Waiver of Service.pdf; Request to Waive Service.pdf

Counsel:

Attached please find the Short Form Complaint filed on behalf of Paul Pospisil and a Request to Waive and Waiver of Service. Please do not hesitate to contact me with any questions or concerns.

Thank you,



Amanda L. Washington
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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**

7 IN RE BARD IVC FILTERS
8 PRODUCTS LIABILITY LITIGATION

9
10 No. MD-15-02641-PHX-DGC

11
12 **SECOND AMENDED MASTER SHORT
13 FORM COMPLAINT FOR DAMAGES
14 FOR INDIVIDUAL CLAIMS AND
15 DEMAND FOR JURY TRIAL**

16 Plaintiff(s) named below, for their Complaint against Defendants named below,
17 incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364).

18 Plaintiff(s) further show the Court as follows:

19 1. Plaintiff/Deceased Party:
20

21 Paul Pospisil
22

23 2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
24 consortium claim:
25

26 N/A
27

28 3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
29 conservator):
30

31 N/A
32

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

Iowa

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

Iowa

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Iowa

7. District Court and Division in which venue would be proper absent direct filing:

USDC Northern District of Iowa, USDC for the District of New Jersey

8. Defendants (check Defendants against whom Complaint is made):

C.R. Bard Inc.

Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

Diversity of Citizenship

Other:

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

- Recovery® Vena Cava Filter
 - G2® Vena Cava Filter
 - G2® Express Vena Cava Filter
 - G2® X Vena Cava Filter
 - Eclipse® Vena Cava Filter
 - Meridian® Vena Cava Filter
 - Denali® Vena Cava Filter
 - Other:

11. Date of Implantation as to each product:

8/15/2015

12. Counts in the Master Complaint brought by Plaintiff(s):

- Count I: Strict Products Liability – Manufacturing Defect
 - Count II: Strict Products Liability – Information Defect (Failure to Warn)
 - Count III: Strict Products Liability – Design Defect
 - Count IV: Negligence - Design
 - Count V: Negligence - Manufacture
 - Count VI: Negligence – Failure to Recall/Retrofit
 - Count VII: Negligence – Failure to Warn
 - Count VIII: Negligent Misrepresentation
 - Count IX: Negligence *Per Se*

- Count X: Breach of Express Warranty
 - Count XI: Breach of Implied Warranty
 - Count XII: Fraudulent Misrepresentation
 - Count XIII: Fraudulent Concealment
 - Count XIV: Violations of Applicable Iowa (insert state) Law
Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices
 - Count XV: Loss of Consortium
 - Count XVI: Wrongful Death
 - Count XVII: Survival
 - Punitive Damages

Other(s): _____ (please state the facts supporting this
Count in the space immediately below)

¹ See, e.g., *United States v. Ladd*, 100 F.2d 722, 725 (5th Cir. 1938) (“[T]he right to a trial by jury is a fundamental right which cannot be abridged or denied.”); *State v. Johnson*, 100 N.C. 1, 10 (1875) (“The right of trial by jury is a fundamental right, which cannot be abridged or denied.”).

Jury Trial demanded for all issues so triable?

- Yes
 No

1 RESPECTFULLY SUBMITTED on this 5th day of March, 2018.

2 **MCLGYNN, GLISSON AND MOUTON**

3 By: s/Amanda L. Washington

4 Amanda L. Washington, *admitted pro hac vice*
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Attorney for Plaintiff

9 I hereby certify that on this 2nd day of March, 2018, I physically transmitted the
10 attached document to the Clerk's Office using the Electronic Filing System for filing and
11 transmittal of a Notice of Electronic Filing.

12
13
14 /s/ Amanda L. Washington
15 Amanda L. Washington
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UNITED STATES DISTRICT COURT
for the
District of Arizona

Paul Pospisil _____)
Plaintiff _____)
v. _____) Civil Action No. 2:18-cv-703
C.R. Bard, Inc., et al. _____)
Defendant _____)

WAIVER OF THE SERVICE OF SUMMONS

To: _____
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 03/05/2018, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT
for the
District of Arizona

<u>Paul Pospisil</u> <i>Plaintiff</i> v. <u>C.R. Bard, Inc., et al.</u> <i>Defendant</i>))
)	Civil Action No. 2:18-cv-703
))

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: C.R. Bard through Attorney of Record

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days (*give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States*) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 03/05/2018

s/Amanda L. Washington

Signature of the attorney or unrepresented party

Amanda L. Washington

Printed name

340 Florida Street
Baton Rouge, LA 70801

Address

amanda@mcglynnglisson.com

E-mail address

(225) 344-3555

Telephone number